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CLERK OF COURT
NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiffs,
UMG RECORDINGS, INC.; SONY BMG
MUSIC ENTERTAINMENT; ELEKTRA
ENTERTAINMENT GROUP INC.; and
INTERSCOPE RECORDS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

CV 08

1007

UMG RECORDINGS, INC., a Delaware
corporation; SONY BMG MUSIC
ENTERTAINMENT, a Delaware general
partnership; ELEKTRA ENTERTAINMENT
GROUP INC., a Delaware corporation; and
INTERSCOPE RECORDS, a California general
partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. _____

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Case No. _____

#36339 v1

ORIGINAL

JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant
8 may be found in this District and/or a substantial part of the acts of infringement complained of
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

PARTIES

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16 4. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
17 laws of the State of Delaware, with its principal place of business in the State of California.

18 5. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
19 partnership, with its principal place of business in the State of New York.

20 6. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and
21 existing under the laws of the State of Delaware, with its principal place of business in the State of
22 New York.

23 7. Plaintiff Interscope Records is a California general partnership, with its principal
24 place of business in the State of California.

25 8. The true name and capacity of Defendant are unknown to Plaintiffs at this time.
26 Defendant is known to Plaintiffs only by the Internet Protocol ("IP") address assigned to Defendant
27 by his or her ISP on the date and time of Defendant's infringing activity. See Exhibit A. Plaintiffs
28

1 believe that information obtained in discovery will lead to the identification of Defendant's true
2 name.

3 **COUNT I**
4 **INFRINGEMENT OF COPYRIGHTS**

5 9. Plaintiffs incorporate herein by this reference each and every allegation contained in
6 each paragraph above.

7 10. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of
8 exclusive rights under United States copyright law with respect to certain copyrighted sound
9 recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this
10 Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted
11 Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright
12 Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of
13 Exhibit A.

14 11. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the
15 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted
16 Recordings to the public.

17 12. Plaintiffs are informed and believe that Defendant, without the permission or consent
18 of Plaintiffs, has continuously used, and continues to use, an online media distribution system to
19 download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies
20 the IP address with the date and time of capture and a list of copyrighted recordings that Defendant
21 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.
22 Through his or her continuous and ongoing acts of downloading and/or distributing to the public the
23 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and
24 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive
25 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are
26 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
27 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
28 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of

1 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
2 distributed by Defendant.)

3 13. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
4 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
5 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
6 These published copies were widely available, and each of the published copies of the sound
7 recordings identified in Exhibit A was accessible by Defendant.

8 14. Plaintiffs are informed and believe that the foregoing acts of infringement have been
9 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

10 15. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
11 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
12 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
13 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

14 16. The conduct of Defendant is causing and, unless enjoined and restrained by this
15 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
16 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
17 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
18 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
19 recordings made in violation of Plaintiffs' exclusive rights.

20 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

21 1. For an injunction providing:

22 "Defendant shall be and hereby is enjoined from directly or indirectly
23 infringing Plaintiffs' rights under federal or state law in the
24 Copyrighted Recordings and any sound recording, whether now in
25 existence or later created, that is owned or controlled by Plaintiffs (or
26 any parent, subsidiary, or affiliate record label of Plaintiffs)
27 ("Plaintiffs' Recordings"), including without limitation by using the
28 Internet or any online media distribution system to reproduce (*i.e.*,
download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload)
any of Plaintiffs' Recordings, except pursuant to a lawful license or
with the express authority of Plaintiffs. Defendant also shall destroy
all copies of Plaintiffs' Recordings that Defendant has downloaded
onto any computer hard drive or server without Plaintiffs'
authorization and shall destroy all copies of those downloaded

1 recordings transferred onto any physical medium or device in
2 Defendant's possession, custody, or control."

3 2. For statutory damages for each infringement of each Copyrighted Recording
4 pursuant to 17 U.S.C. § 504.

5 3. For Plaintiffs' costs in this action.

6 4. For Plaintiffs' reasonable attorneys' fees incurred herein.

7 5. For such other and further relief as the Court may deem just and proper.

8 Dated: March 27, 2008

HOLME ROBERTS & OWEN LLP

9
10 By 

11 MATTHEW FRANKLIN JAKSA
12 Attorney for Plaintiffs
13 UMG RECORDINGS, INC.; SONY BMG
14 MUSIC ENTERTAINMENT; ELEKTRA
15 ENTERTAINMENT GROUP INC.; and
16 INTERSCOPE RECORDS
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EXHIBIT A**JOHN DOE****IP Address:** 207.62.140.74 2007-11-21 06:40:59 EST**CASE ID#** 148575768**P2P Network:** GnutellaUS**Total Audio Files:** 210

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Mary J. Blige	Be Without You	The Breakthrough	384-873
SONY BMG MUSIC ENTERTAINMENT	Beyonce	Naughty Girl	Dangerously in Love	342-236
UMG Recordings, Inc.	Blink-182	Everytime I Look For You	Take Off Your Pants And Jacket	301-317
UMG Recordings, Inc.	Bon Jovi	Who Says You Can't Go Home	Have a Nice Day	382-027
UMG Recordings, Inc.	Gin Blossoms	Allison Road	New Miserable Experience	147-035
Elektra Entertainment Group Inc.	Eagles	In the City	The Long Run	13-182
UMG Recordings, Inc.	3 Doors Down	Be Like That	The Better Life	277-407
Interscope Records	Eminem	Encore	Encore (single)	362-156
SONY BMG MUSIC ENTERTAINMENT	Shakira	Objection (Tango)	Laundry Service	306-496
SONY BMG MUSIC ENTERTAINMENT	Kansas	Dust In The Wind	Point Of Know Return	N46813

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I. (a) PLAINTIFFS

UMG RECORDINGS, INC.; SONY BMG MUSIC ENTERTAINMENT;
ELEKTRA ENTERTAINMENT GROUP INC.; and INTERSCOPE
RECORDS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

Los Angeles County, CA

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANT

JOHN DOE

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

HOLME ROBERTS & OWEN LLP

Matthew F. Jaksa (SBN: 248072)

560 Mission Street, 25th Floor

San Francisco, CA 94105-2994

Phone: (415) 268-2000

Fax: (415) 268-1999

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR (For Diversity Cases Only) PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property	<input type="checkbox"/> 423 Withdrawal	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	PROPERTY RIGHTS	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 RR & Truck	<input checked="" type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	SOCIAL SECURITY	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW 405(g))	<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 894 Energy Allocation Act
		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
		<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 950 Constitutionality of State Statutes
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

17 U.S.C. § 501 et seq. – copyright infringement

VII. REQUESTED IN COMPLAINT

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ ☐ CHECK YES only if demanded in complaint

UNDER F.R.C.P. 23: Statutory damages; injunction JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT

(CIVIL L.R. 3-2) (PLACE AN "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

DATE

March 27, 2008

SIGNATURE OF ATTORNEY OF RECORD



ORIGINAL